



## South Dakota One Call Notification Board

Larry Englerth  
Executive Director

1012 North Sycamore Ave.  
Sioux Falls, SD 57110

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February 21, 2004

Barry Q. Olander, President  
Olander Contracting Company  
P. O. Box 1026  
Fargo, ND 58107

RE: Complaint OC04-001 GoldenWest Telecommunications vs. Olander Contracting Co.

VIA FACSIMILE

Dear Mr. Olander,

I have received your response to the complaint filed by GoldenWest Telecommunications against your firm and would like to respond to your concerns and request clarification of some statements prior to submitting the information to the Enforcement Committee for recommended resolution.

I would first like to respond to the concerns you expressed relative to the complaint process. It should be noted that my response is for informational purposes and is not related in any manner to the actual facts on this complaint.

A policy was established earlier this year that at any time a member company (excavator or facility operator) was involved in the complaint process, the Board member would not be allowed to serve on or attend the Enforcement Committee meeting when the said complaint is reviewed. Therefore, Mr. Schroeder would not be a participant in the Enforcement Committee that reviews this complaint. If the complaint is not resolved by the Enforcement Committees' recommended resolution, you would have the opportunity to request Mr. Schroeder to recuse himself from the hearing process.

You also stated that you found some of the statements made in the complaint to be vindictive, false and incendiary; I can assure you that all extraneous comments made by either party during the complaint process are not discussed or considered in determining if probable cause existed for the complaint to be sustained or dismissed. Only those factors relevant to a specific violation of the statute or administrative rule are considered and discussed.

On page two, item six, the response referenced the application of different standards for excavation activity conducted by GoldenWest Telecommunications than the standards required of excavators such as yourself. By statute, GoldenWest Telecommunications is required to operate in accordance with the same excavation statutes and administrative rules that apply to any excavator. The complaint process is available for any party to utilize against another party who fails to comply with South Dakota Statutes and Rules and is not limited to a utility company versus an excavator. We do encourage

the parties involved to discuss and attempt to resolve the issues prior to filing a complaint.

I would like to request clarification of a few items in your response to this complaint.

**Relative to OC04-001 (A) Alleged violation of SDCL 49-7A-5 Notification of Proposed Excavation – commencing excavation prior to the 48 hour interval**

On page two, items two and three...the response stated that you had a working agreement with the local utilities to extend the expiration date of the ticket indefinitely. I am wondering if this agreement was written or verbal and who the representative of GoldenWest was that entered into said agreement?

On page two, item four...the response states that your firm called for locates in the area identified in the complaint and that all notified utilities responded with the exception of GoldenWest Telecommunications. I would like clarification if this is the same locate request number identified in the complaint or if the statement is referencing a different locate request number?

- 1) If it is the same locate request number, the complaint (associated picture) references excavation activity prior to the start date/time on the locate request and I would encourage you to respond to that specific allegation in the complaint.
- 2) If there is a different locate request number, I would appreciate if you could provide me that information and I will secure a copy of the ticket for the Enforcement Committee.

**Relative to OC04-001 (B) Alleged violation of ARSD 20:25:03:04 Information required when initiating a Routine Locate Request.**

The complaint alleges that the locate request was in violation of this rule for to the following reasons:

- 1) The locate request provided an inaccurate legal description
- 2) The locate request failed to provide readily available information such as specific street address, intersecting street and
- 3) The locate request failed to provide specific marking instructions.

I did not find these allegations addressed in your response.

The purpose of this request is to insure that the Enforcement Committee has the most accurate and relevant information available for their consideration when making a recommended resolution. I would appreciate a clarification response, if you desire to submit one, by the close of business on Monday, March 1, 2004. This response may be sent by email or facsimile.

If you have any questions relative to this request, I would appreciate if you could contact me at 605-339-0529 or by email at [exedir@sdnecall.com](mailto:exedir@sdnecall.com).

Sincerely,

Larry L. Englerth  
Executive Director

3/01 cld to determine if they are going to respond.  
per SEC, she will advise if they are not.

**OLANDER CONTRACTING CO.**

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PO Box 1026  
Fargo, ND 58107  
Telephone: (701) 232-6716  
Fax: (701) 232-0144

GENERAL CONTRACTORS  
MUNICIPAL - HEAVY CONSTRUCTION

March 1, 2004

Mr. Larry Englerth  
Executive Director  
South Dakota One Call Notification Board  
1012 North Sycamore Avenue  
Sioux Falls, SD 57110

RE: Your Feb. 21, 2004 letter re: Complaint 4-OC04-001

Dear Sir:

Our response to your inquiry letter as per the referenced correspondence is as follows:

1. RE: Page two, items two and three ----  
Notification of proposed excavation. Our agreements with Golden West/Black Hills Power and Light/City of Hot Springs utility dept., developers Sumanek and Lorenz regarding on-going locating procedures were all verbal. The representative of Golden West that entered into the verbal agreement with our firm regarding on-going locate procedures was Lee Carr.
2. RE: Page two, item four
  - (1) It is the same locate request number. All parties that had to respond prior to construction commencement had, in fact, responded. Those parties were Black Hills Power, City of Hot Springs utilities, and developer and telephone line locator installer Sumanek. Our construction supervisor on site assured himself that all utilities were located prior to start of excavation for waterlines. All of the proposed work lay on private property belonging to Mr. Sumanek. Mr. Sumanek located the PVC conduit for our supervisor prior to work starting. There was no telephone wire pulled through the conduit at the time of the Sumanek locate; therefore, Golden West wasn't required as they weren't able to locate the PVC conduit without their wire being installed in the conduit. This fact had been demonstrated to our supervisor some 7 - 10 days earlier in another location on the golf course when Golden West couldn't locate the PVC carrier conduit without wire although Sumanek could and did make the locate.

March 1, 2004  
Mr. Larry Englerth  
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Relative to OC04-001(B) – Alleged violation of ARSD 20.25.03.04 – Information required when initiating a routine locate request.

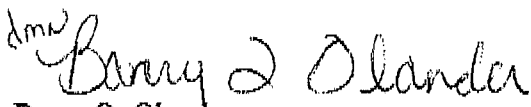
Answer: We disagree that the locate request was in violation of the rule. The locating service did accept the information given to them via telephone by our firm's supervisor and passed the one call notice on to the appropriate parties. It is not unusual for contractor's to make call ins without having access to section and township information as it sometimes isn't readily available. Other landmarks often suffice for a locate description. Although I don't have access to a recording of the locate request, my supervisor informed me that all parties had adequate information thus enabling their locators to respond. This includes Golden West as they were able to locate and photograph our equipment via the instructions given to One-Call. The locate request didn't specify street names as the dig location was in the middle of an open field and was absent of street markings. No streets were proposed at this site.

Please contact me if any further information is required.

Thank you.

Yours truly,

Olander Contracting Co.

*dmw*  
  
Barry Q. Olander  
President

BQO/dmn